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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,054	03/02/2004	Dardo Bonaparte Lujan	ALUJA.0102CIP	2861

7590 05/12/2006
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EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/791,054	Applicant(s) LUJAN, DARDO BONAPARTE	
	Examiner Troy Chambers	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,8-11,13,14,17,18,21-24,26 and 31-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,12,15,16,19,20,25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “at least one projectile stopping panel” (claims 15, 16), “the impact cushioning panel” (claim 28), the projectile-stopping panel comprising loosely-entangled fibers (claim 29) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 5, 12, 15, 16, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6718861 issued to Anderson et al. (hereinafter "Anderson").

4. With respect to claim 1, Anderson discloses a ballistic panel 120 for providing ballistic protection comprising: a plurality of deformable pieces 140 that are arranged side-by-side and detachable as shown in Figs. 2 and 6A-6D.

5. With respect to claim 2, refer to Figs. 6A-6D.

6. With respect to claim 5, Anderson discloses a ballistic panel comprising deformable pieces 140 and a high-tensile strength fabric 130.

7. With respect to claim 12, Anderson discloses deformable pieces comprising metals (col. 5, lines 16-17). Applicant's use of the phrase "comprising" in the attempted Markush group does not operate to exclude other materials.

8. With respect to claim 15, Anderson discloses a ballistic panel comprising a plurality of deformable pieces 140 that are detachably retained in said panel, and at least one projectile stopping panel 130.

9. With respect to claim 16, Anderson discloses a ballistic panel having a front side comprising a panel 110 and a rear side comprising a panel 130.

10. With respect to claim 25, Anderson discloses deformable pieces comprising metals (col. 5, lines 16-17). Applicant's use of the phrase "comprising" in the attempted Markush group does not operate to exclude other materials.

11. With respect to claim 27, refer to Fig. 1.

12. With respect to claim 28, refer to col. 5, ll. 23-26, which discloses an absorbing layer that can include a plurality of layers.

13. Claims 1, 5, 6, 7, 15, 16, 19, 20, 27, 28, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by US 2723214 issued to Meyer.

14. With respect to claim 1, Meyer discloses a ballistic panel comprising a plurality of deformable pieces 7 arranged side-by-side and detachably retained as seen in Figs. 1 and 3.

15. With respect to claims 5 and 6, the pieces 7 comprise glass fabric (col. 2, ll. 8-12) and form a plurality of layers that are offset from one another as shown in Figs. 5 and 6.

16. With respect to claim 7, Meyer discloses deformable pieces comprising glass fibers as discussed above.

17. With respect to claim 15, Meyer discloses a panel comprising side-by-side deformable pieces that are detachably retained and at least one projectile stopping panel 2', 4', 6' as shown in Fig. 3.

18. With respect to claim 16, refer to Fig. 3 of Meyer.

19. With respect to claim 19, Meyer discloses a panel 1 included glass fiber pieces that are detachably retained.

20. With respect to claim 20, refer to Fig. 6 of Meyer.

21. With respect to claim 27, refer to Fig. 3.

22. With respect to claim 28, Meyer discloses an impact cushioning panel 2'-6'.

23. With respect to claim 29 and 30, Meyer discloses detachably connected impact pieces 7 that are comprised of glass fibers. It is not known what applicant means by "loosely-entangled".

Response to Arguments

24. Applicant's arguments filed 03/10/06 have been fully considered but they are not persuasive.

25. The objection to the drawings remains. All features of a claim must be shown in the drawings.

26. With respect to the rejection of claim 1 as being anticipated by Anderson, the applicant argues that the deformable pieces of Anderson are not arranged side-by-side. However, the applicant is referred to Figs. 6A-6D of Anderson, which clearly shows the deformable pieces 140 in a side-by-side configuration. Contrary to applicant's position, to be side-by-side does not require two elements to be in contact with one another.

27. With respect to the rejection of claim 5 as being anticipated by Anderson, refer to the rejection of claim 1 above. Furthermore, the Examiner interpreted the claim as requiring the deformable pieces to be "cut into pieces". The claim does not make it

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clear that the fabric must be cut into pieces. Applicant should amend the claim to make this point clear.

28. With respect to the rejection of claims 12 and 15, refer to the rejection of claim 1 as discussed above.

29. With respect to the rejection of claim 16, Anderson discloses front and rear panels 110 and 130, respectively. The front panel 110 receives the projectile while the rear panel 130 stops it.

30. With respect to the rejection of claim 25 over Anderson, refer to the discussion of claim 15.

31. With respect to the rejection of claim 27 over Anderson, Anderson makes it very clear that the ballistic panel requires a plurality of layers, with each layer being attached to one another.

32. With respect to the rejection of claim 28, applicant provides a lengthy discussion explaining why the claimed "impact cushioning panel" is different from that cited in Anderson. However, the characteristics of the cushioning panel, which the applicant believes distinguished over the prior art, are not cited in the claims. Anderson merely has to disclose a panel that is capable of cushioning.

33. With respect to the rejection of claim 1 over Meyer, applicant argues that the claims distinguish over the prior art because Meyer uses "rigid" plates while the invention requires "deformable pieces". However, "rigid" and "deformable" are relative terms that do not serve to distinguish the claimed invention over the prior art. All

projectile-absorbing materials possess some sort of rigidity and structural deformity in order to work properly.

Applicant's second argument provides a comparison between the specifications of Meyer and the instant application. However, it is the claims that are at issue - - not the applicant's specification. There should be a distinct difference between what is cited in the claims and what is disclosed in the prior art.

34. With respect to the rejection of claim 5 over Meyer, refer to the discussion above regarding the rejection of claim 1. Furthermore, glass fabric can be considered a "high-tensile strength" fabric. This terminology is relative and does not serve to distinguish over the cited prior art.

35. With respect to the rejection of claim 7, the Examiner would point once again that prior art is applied to the claims and not the applicant's specification. It is irrelevant that the applicant's specification did not mention glass fibers.

36. With respect to the rejection of claim 15 over Meyer, refer to the discussion relating to the rejection of claim 1. And, once again, the prior art is not compared with characteristics disclosed in an applicant's specification but with the claimed subject matter. The Examiner need only find a layer that is capable of stopping a projectile.

37. With respect to the rejection of claim 16 over Meyer, refer to the discussion of claim 15.

38. With respect to the remaining claims, applicant provides arguments in much the same manner as for the previously rejected claims (i.e., applicant argues the

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specification rather than specific claim language). Hence, the Examiner deems those claims properly rejected as well.

Conclusion

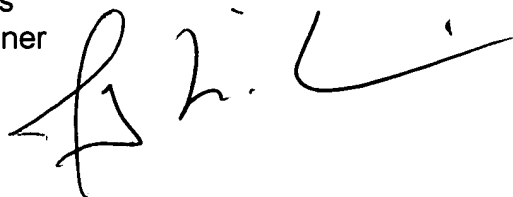
39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers
Primary Examiner
Art Unit 3641

TC
10 May 2006

A handwritten signature in black ink, appearing to read 'T. Chambers', is written over the printed name and title of the examiner.